

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-43743

Nolan Tanie Eccles, Jr.,

Debtor.

NOTICE OF MOTION AND MOTION
OBJECTING TO EXEMPT PROPERTY

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTOR AND HIS ATTORNEY:

1. Dorraine A. Larison, Trustee of the bankruptcy estate of the above-named debtor, moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m. on September 29, 2004, in Courtroom No. 7 West, at the United States Courthouse, at 300 South Fourth Street, in Minneapolis, Minnesota.

3. Any response to this motion must be filed and delivered not later than September 22, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than September 17, 2004, which is ten (10) days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. § 522, Bankruptcy Rule 5005 and 9014, Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on July 6, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. § 522, and Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to

9001-6 and 9013-1 to 9013-5. Movant requests relief with respect to debtor's claims for exemption.

6. Debtor has claimed as exempt the following assets which the trustee objects to as follows: 2002 Cub Cadet lawn tractor with a scheduled value of \$1,000.00 and one German Wirehair and one English Setter with a scheduled value of \$600.00, all claimed exempt under 11 U.S.C. § 522(d)(3).

7. The trustee objects to the debtor's claims of exemption on the following basis: The lawn tractor and two dogs do not fall within the type of property defined as exempt under the statute.

WHEREFORE, Applicant moves the court for an order sustaining trustee's objection to claimed exempt property and such other relief as may be just and equitable.

Dated this 31st day of August, 2004.

/e/ Dorraine A. Larison
Dorraine A. Larison
I.D. No. 203609
GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.
1010 West St. Germain
Suite 600
St. Cloud, MN 56301
(320) 252-4414
Attorneys for Trustee

VERIFICATION. I, Dorraine A. Larison, the movant declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: August 31, 2004.

/e/ Dorraine A. Larison
Dorraine A. Larison, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

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Nolan Tanie Eccles, Jr.,

UNSWORN CERTIFICATE OF SERVICE

Debtor.

I, Jean Eisenschenk, declare under penalty of perjury that on August 31, 2004, I mailed the following documents:

NOTICE OF MOTION AND MOTION OBJECTING TO EXEMPT PROPERTY AND PROPOSED ORDER

by first class mail postage prepaid to each entity named below at the address stated below for each entity:

UNITED STATES TRUSTEE
1015 US COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

DAVID C OLSON
ATTORNEY AT LAW
12805 HWY 55 RM 102
PLYMOUTH MN 55441

NOLAN TANIE ECCLES JR
6321 ASH STREET
ROCKFORD MN 55373

Executed on: August 31, 2004

/e/ Jean Eisenschenk
Jean Eisenschenk
GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.
Suite 600
1010 West St. Germain Street
St. Cloud, MN 56301

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ORDER

Debtor.

At Minneapolis, Minnesota, _____, ____.

Upon the Objection to Claimed Exempt Property filed by the Trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED:

1. The debtor's 2002 Cub Cadet lawn tractor, one German Wirehair, and one English Setter are not exempt.
2. The debtor shall turn the 2002 Cub Cadet lawn tractor, one German Wirehair, and one English Setter, or their value, over to the Trustee.

Nancy C. Dreher
UNITED STATES BANKRUPTCY
JUDGE